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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,028	01/17/2002	Gerald A. DiBattista	Mo-6937/MD-01-87-KU	2112

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EXAMINER

EDELL, JOSEPH F

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/053,028

Applicant(s)

DIBATTISTA ET AL.

Examiner

Joseph F Edell

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 6, 8, 9, 12, 15, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,100,204 to Makiyara et al.

Makiyara et al. disclose a molded article that includes all the limitations recited in claims 1, 2, 4, 6, 8, 9, 12, 15, 17, and 18. Makiyara et al. show a molded article having a metallic rigid support 30 (Fig. 2) with a plurality of perforations 38 (Fig. 2) including deformed edge portions 40 (Fig. 2) and anchoring extensions (Fig. 5), a molded flexible member 28 (Fig. 2) of thermoplastic material that abuts a portion of the support, has a hollow interior (Fig. 4), and a molded-in texture (Fig. 4) wherein at least a portion (Fig. 5) of the flexible member extends through some of the perforations of the support thereby fixedly attaching the flexible member to the support, and fasteners 34 (Fig. 2) further fixedly attaching the flexible member to the support.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Makihara et al.

Makihara et al. disclose a molded article that is basically same as the recited in claim 3 except the material of the rigid support is not specified as a thermoplastic, as recited in the claims. Although the rigid support is generically cited as a metal, modifying the material would have been obvious at the time the invention was made because the use of preferred materials discovered by routine experimentation is ordinarily with the skill of the art. Further, it would have been an obvious matter of design choice to modify the material of the rigid support, since the applicant has not disclosed that having the specific material solves any stated problem or is for any particular purpose and it appears the molded article would perform equally well with any well know material used in the seat art.

5. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makihara et al. in view of U.S. Patent No. 6,120,100 to Palazzolo et al.

Makihara et al. disclose a molded article that is basically same as the recited in claims 5 and 7 except the flexible member lacks a means for reversibly increasing pressure within the hollow member through fluid communication via a pressure regulating valve, as recited in the claims. Palazzolo et al. show a molded article similar to that of Makihara et al. wherein the molded article has a flexible member 26 (Fig. 5) with an outer surface and further comprising an integral film/fabric covering 20 (Fig. 5)

on the outer surface formed by an in-mold decoration process. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the molded article of Makiyara et al. such that the flexible member has an integral film/fabric covering on the outer surface formed by an in-mold decoration process, such as the molded article disclosed in Palazzolo et al. One would have been motivated to make such a modification in view of the suggestion in Palazzolo et al. that the decorative covering on the flexible member provides an outer surface with various textures and colors.

6. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makiyara et al. in view of U.S. Patent No. 5,711,575 to Hand et al.

Makiyara et al. disclose a molded article that is basically same as the recited in claims 10 and 11 except the flexible member lacks a means for reversibly increasing pressure within the hollow member through fluid communication via a pressure regulating valve, as recited in the claims. Hand et al. show a molded article similar to that of Makiyara et al. wherein the hollow interior has a means for reversibly increasing pressure with a hollow interior, a pressure regulating valve the provides fluid communication with the hollow interior, and a heated or cooled liquid is introduced into the hollow interior. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the molded article of Makiyara et al. such that the flexible member has a means for reversibly increasing the pressure within the hollow interior having a pressure regulating valve that provide communication with the hollow interior, and a heated or cooled liquid reversibly

introduced into the hollow member through the pressure regulating valve, such as the molded article disclosed in Hand et al. One would have been motivated to make such a modification in view of the suggestion in Hand et al. that the means for reversibly increasing the pressure allows for the accommodation of different sized users.

7. Claims 13, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Makihara et al. in view of U.S. Patent No. 5,522,645 to Dahlbacka.

Makihara et al. disclose a molded article that is basically same as the recited in claims 13, 14, and 16 except the rigid support lacks seat back and bottom supports and the rigid support lacks a hollow interior, as recited in the claims. Dahlbacka shows a molded article similar to that of Makihara et al. wherein the rigid support has a rigid seat back support and a rigid seat bottom supports 12 (Fig. 6) with flexible cushions 14, 14A (Fig. 6) attached to the supports, and the rigid support is a continuous unit with a hollow interior (Fig. 6). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the molded article of Makihara et al. such that the rigid support has a unitary, rigid seat back and bottom supports and the flexible member has flexible cushions attached to the seat back and bottom supports, and the rigid support has a hollow interior, such as the molded article disclosed in Dahlbacka. One would have been motivated to make such a modification in view of the suggestion in Dahlbacka that the hollow rigid support with attached flexible cushion is inexpensive to assemble due to the minimum of components and requiring minimal skilled labor.

***Response to Arguments***


8. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

JE  
September 22, 2003

  
PETER R. BROWN  
PRIMARY EXAMINER